

7.7 255-92
G. R. S. IX-5]

Previous references.

LR 1-70.

LR 26-73.

" 44-79.

" 61-88.

1891-92

192

(L.R.)

File No. 2431

Serial Nos.

Later references.

GENERAL AND REVENUE SECRETARIAT

Serial Nos. 1-13

M Part B for

February 1896

SUBJECT.

Petition from Mr. C. Sadashiva Rao. Pleader on behalf of
negal name Mallegowda and others of Belga Taluk
regarding the fine imposed on the petitioner in consequence
of the loss of Sandal trees on Mangavarantha Kaval.

1
II
Minute of the Dewan.

on File No 255 of 1870-73 relating to the appeal of Mallegowda and others of Madagatta, Belur Taluk, against the fine imposed on them under Chief Commr's Notification No 18, dated 18th August 1870.

1). Please see my pencil notes within. The matter has again come up before the office after 7 months, only today, with a report that the correspondence called for is not forthcoming either in my office or in the Chief Court. The latter must leave it. I say it from personal knowledge. I have however now written to the Resident the latter copy of which I enclose.

2). It is impossible we can decide that the Executive orders of the "Chief Commissioner and Commissioner" had at no time the force of law in Mysore. It was only at a certain stage of the British Administration of Mysore that the Government of India stepped in and said that the executive orders of the Viceroy and not those of the Chief Commissioner had the force of law in Mysore. From that date the

"Commissioner" or "Chief Commissioner" exercised no legislative functions, but previously every executive order of this functionary had the force of law. This was a necessary result of the terms of ^{"Commissioner's"} the appointment. This change I think took place about the time that Chief Commissioners came to be appointed for other Provinces such as Oudh, Central Provinces. He had in Mysore at one time the same powers as the Maharajah of Mysore, only he was expected to exercise them in accordance with the policy and instructions of the Governor-General.

3). If we hold any other opinion, we shall be placed in a very awkward position indeed. How will the Chief Court for instance deal with an unstamped document of Rs 50? Don't they levy duty and penalty on it? What is the law under which they do it? An executive order of Sir Mark Cubbon.

Again suppose an Amildar's decision in a Civil Suit of 1862 is quoted as "res judicata". Will not the Courts now consider it or will they refuse to consider it because the Amildar's civil jurisdiction and procedure were based upon the

Commissioner's Executive order called I believe "a guide" or some such thing.

4). It is just probable that the Chief Commissioner's legislative powers were taken away previous to the Circular of 1870. If so this Circular was only a repetition or explanation of a previous executive order which had the force of law.

5). We have to maintain a certain amount of continuity of policy and that is my only excuse for ~~delaying~~ the disposal of this and some other similar questions now before me.

6). The utter absence of information in our office on such subjects is most deplorable, and the Legislative Department does not take the trouble to inform itself regarding the past legislative history of anyone.

17th July 1893

(Signed) K. Seshadriyer.

301. Councillors
2. The Legislative Secretary
3. Chief Secretary -

4-2

0
c
f

seen

up

2017195

Serial No 3782 of

MM

- 1 M. M. alle growda
- 2 Patul M. alle growda.

valued at Rs 250

In 1889, Certain sacred trees standing
on the Raval land held by the ~~the~~
Akhya & others were destroyed by
fire kindled by one Mare growda
in the said land for cooking purposes.
It was established that the damage
was not intentionally caused but
was an accident. The Rhatadaro did
not report the matter immediately
to Govt. on the ground & on the ground
that the Akhya did not take proper care
of the trees, the Dy Commr fined ~~each~~
the 10 persons concerned 25 Rs each.
The appeal is against this order.

The Govt are of opinion that
since ~~there~~ there was no carelessness on the
part of any one concerned, they

are not liable to any
fine. Moreover
under the Forest rules,
the Dy. Commr has no
power to impose any fine
for such offences. It
is true that under the Chief Commr's
~~the~~ notification dated
16th August 1870 & 186,
the Dy. Commr is authorized
to impose a fine ^{on occupants of lands} for
the offence of not
reporting the accident,
but after notification
cannot be said to have
the force of law as it
was not passed under
the Forest rules sanctioned
by Govt of India, ~~even if~~ even if
the Dy. Commr is
authorized to ^{impose} ~~impose~~ the
fines & refund it to
the parties if it has been
collected. —

It ~~was~~ had the force of
law, it is not applicable
to the person who is
not the occupant of
the lands.

Uf

12/9/92

1079

1079

This may be
sent to Secy for
approval before issue
with reply to his order
on 24.9.1872

1) Please see my pencil notes within.

The matter has again come up from the Office after 7 mos. and today ~~and~~ I have ^{now} written to the Resident the letter of 7- which I enclose -

with a view to that the Com. be called for a not forthcoming letter in my Office or in the Chief Ct. like the letter must have it. I say it from personal knowledge

2) It is impossible we can decide that the Executive orders of the "Ch. Court" & "Court", had ^{at} no time ~~legislation~~ the force of law in Mysore

It was only at a certain stage of the British Admin. of Mysore that the Govt of India stepped in & said that the Executive orders of the Vicar & not those of the Ch. Court ~~had~~ had the force of law in Mysore. From that date the "Court" or "Ch. Court" exercised

no legislative functions, but previously Every Executive order of this functionary had the force of law - This was a necessary result of the terms of the Commission's Appointment - ^{This was changed I think about the time that} He had in the same powers ^{as the Maharaja of Mysore}

~~functions~~ as the Maharaja of Mysore and he was expected to exercise them in accordance with the policy & instructions of the Governor Genl

3) - If we hold any other opinion

Chief Comr. the appointed for the Province under British Control

shall be placed in a very awkward position indeed -
 How will the Chief Ct. for instance deal with an unstamped doc't of 1850?
 Don't they levy duty & penalty on it? What is the law under which they do it?
 An Ex^o order of Sir Mark Cubbon.

Again I suppose an Amuldar's decision in a Civil Suit of 1862 is quoted as "res judicata" - will not the Courts now consider it or will they refuse to consider it because the Amuldar's Civil jurisdiction & procedure were based upon the Commr's Executive order called I believe "a guide" or some such thing.

4) ... It is just probable that the CC's legislative powers were taken away previous to the Circular of 1870 - If so this Circular ~~is~~ was only a repetition & explanation of a previous Executive order which had the force of law.

5) ... we have to maintain a certain amount of continuity

of policy and that is my only excuse
for delaying the disposal of
this and some other similar
questions - ~~which~~ now before me -

6). The utter absence of
information ~~is~~ in our
Office on such subjects
is most deplorable, and
the Leg^t Dept. ~~knows~~ does
~~not~~ not take the trouble
to inform itself regarding
the past legislation history
of Mysore ———

17.7.93

1. Commissions

2. Leg^t Leg

3. Chief Secy



M No 3531 of 1893-94

Appl

Deoda
of Kuddus
Jarekare Dabing
Kadur D.

Deodoner has a Private Tank constructed by his ancestors & others. He was found guilty of having (1) erected a bund across its waste weir & thereby obstructed the free flowing of water which found some other course & overflowed the track used by the people & rendered it impassable, (2) altered the position of the sluice ~~contrary~~ to the orders issued by the Dy Commr, & (3) ~~for~~ ~~being~~ failed to remove the bund & to replace the ~~sluice~~ sluice as he was directed to do, & fined in a sum of Rs 25. The fine was imposed by the Dy Commr in his Revenue capacity under ~~Section 130~~ the Chief Commr's notification dated 13th March 1874 No 326. — The appeal is against the order of the Dy Commr. —

~~It was given to the~~

Gone an of

opinion that the Dy Commr

had no power to impose

the fine appealed against

(Apart from the question

whether the Chief Commr's

notification of 1874 can

now be acted upon, ~~it~~

~~There is no such power as that specified in the notification~~

is given to the Dy Commr by

the Revenue Code which has
since become law) ^{it is clear that} the

Case under notice does not

fall under the notification

which relates exclusively

to offences committed in respect

~~of the~~ to Govt channels.

The fine must therefore be

refunded. If the P^r has

caused any obstruction to

a Public road, he must be

dealt with on the Criminal

side.

Subd^d
in
order to comply
with the provisions of the
Act of 1874

22/7/95

Note for Mr D. Chettyar

I shall be glad if you

can make the decision

more judicial - I do not

see how a fine on a private

individual can be imposed under

an execution order. The notification

under notice does not appear to be

W.L.
13/12/95

The question whether
the design of 15 March 1995
had the form of law
is an important question.
It was described sometime
ago with a Tamil design
and there is a difference
a diff. of opinion between
the members of committee —
I do not suppose that this
question the design is
at a meeting and decided
definitely.

In the meantime
you will note whether there
is any complaint to show
that the design was justified
after obtaining the
opinion of Justice to the same
Ct. J.
14/2/95

Sd/- J. There is nothing to show
that notification No 326
was promulgated with the previous
sanction of Govt.
U. J.

Let this be posted
for hearing before
me & Mr. Mambro
Chellu at 10
to 12 noon tomorrow
if he
is present.
Let me
know the date
of the hearing
by Mr. J. Chellu
10/6/95

Let be referred to the
1st member for
orders as to whether
this may be referred
for hearing before
himself & the 2nd
member of
10/6/95

The Rent question?

answer is whether

the bridge No 3rd

has the power of law

Could we not discuss

indeed then at

a meeting? Could

we discuss others?

Brother I have no

obj to the committee

started in 4, if you will

1. an date 188

and you in and

me. Is the party to

be served with notice?

Is the notice in

be in the return

at my own at an early

date -

Can you want

the committee to be by the

return the record to

12/6/95

0
 hygien for Barbara Buckle's

I thought the question

raised from many the

disinfect and sterilize

at a party of the same

that as you and the

can also be party to

to I have no objection

It is a party matter

I have with myself

from a long time, but

the day when
 and then and
 on this

Yours

W. H. H. H. H.

but this matter
 to have separate
 system - previous
 he thinks it is a mistake
 from whole course
 will be in order for him
 to answer - otherwise
 let this be looked on
 as a case of the matter
 an office of the matter
 of the course on already
 during with 12/6/95

To

J. P. Parnassian Esq
Mendocino

13/6/95

Please place this
before the Bureau
and ascertain the
brother in the matter

No. 326

NotificationThe 13th March 1874.

The following acts are declared to constitute Channel Offences, and are punishable on the Revenue side by Officers not below the grade of Assistant with fine not exceeding 10 Rs. In Extreme cases falling under sections 425, 426, 427, 430, 431, or 432 of the Penal Code, the case should be taken up by a competent Magistrate.

- I Obstructing the flow of water in the main or Supply Channels.
- II Injuring the main Channels by opening escapes for the water, or otherwise.
- III Injuring the Channel banks by digging up grass or otherwise.
- IV Wilfully allowing cattle to stray on the banks of the Channels.
- V Cultivating land within a space of ten feet from the Channel banks, after being prohibited by proper authority from doing so.
- VI Interfering with any sluice or structure in the main Channels.

VII Widening, deepening or otherwise altering the supply channel to the detriment of land farther from the sluice.

VIII Willfully allowing wastage of water flowing from the main Channel.

IX Neglecting to maintain the earthenworks, mounds & the same height and section as the contiguous portions of the embankment.

By order

(Signed) H. W. Willesey.

Offg. Secretary.

7 copy
H. W.

P.S.

Two like a copy of
the note & my
previous one regarding
Sunderland
Rules to be laid before
Commission & to
be recorded in
the deep depth by
19/6/95 -

18
Laid to Rev. Secretary
with a fair copy of the
above and of the Rules
with in regard to the
Sunderland provisions.
- in rule of 1870.
19/6/95 - J.P.

Note for 13 March
1874

Note

I have myself no doubt
that this is "Law".

It is ~~not~~ for us to decide
whether the Chief Court
did or did not obtain
the sanction of Govt of India,
at a point on which our

information is necessarily
~~not~~ If C.C. violated
any orders laid down
for his guidance by
the Govt of India, it
is no business of ours to enquire
into that matter. The
C.C.'s represented Sovereign
Authority as far as we are
concerned, & orders intended
ostensibly to give the force
of law & promulgated
by him & hitherto respected
as law, shd. continue to
be so respected -

I am still of the opinion
that I recorded in regard
to Sunderland Rules being laid -

I can say a good deal more
apt. Mr. Chancelor Davis views in
this matter and we are only wish to be

For the orders of
Govt of India may
have been obtained
by him d.O. or by
word of mouth. It
was to prevent discussion
of this kind that the B. Govt
removed the entire course
between Govt of India &
Ch. Court and we
have no business
to get behind duly
promulgated laws
to under the authority
of the Ch. Court.

As referred to in the matter
under question if a contrary
view to the above happens
to be held as to what
is law in my view
19/6/95 -



Note.

I have myself no doubt that this, Notification N^o. 326 dated 15th March 1874, is "Law".

It is not for us to decide whether the Chief Commissioner did or did not obtain the sanction of ^{the} Government of India, a point on which our information is necessarily nil, for the orders of Government of India may have been obtained by him in D. O. or, even by word of mouth. It was to prevent discussion of this kind that the British Government removed from our custody the entire correspondence

between ^{the} Government of India and Chief Commissioner, and we have no business to get behind duly promulgated laws under the authority of the Chief Commissioner. If the Chief Commissioner violated any orders laid down for his guidance by the Government of India, it is no business of ours to enquire into that matter. The Chief Commissioner represented ^{the} Sovereign authority as far as we are concerned and orders intended ostensibly to have the force of law and duly promulgated by him and hitherto respected as law, should continue to be so respected.

I am still of the opinion I recorded in re-
gard to Land Revenue Rules being

x
copy enclosed.

2.

being law -

I can say a good deal more against Mr. Chentul Row's views in this matter and would only wish to be referred to in the matter under question if a contrary view to the above happens to be held as to what is law in Mysore -

Mysore, 19th June 1895. Signed K. Chentul Row

P. S.

I would like a copy of this note and my previous one regarding Santhal Rules to be circulated to Councillors and to be recorded in the Legislative Department -

19. 6. 95.

Signed K. S.

Circulated to
the Commission of
20/6/95 -

3. If we hold any other opinion, we shall be placed in a very awkward position indeed. How will the Chief Court for instance deal with an unstamped document of 1850? Don't they levy duty and penalty on it? What is the law under which they do it? An Executive order of Sir Mark Cubbon -

Again suppose an Arnildass's decision in a Civil Suit of 1862 is quoted as "Res-judicata". Will not the Courts now consider it or will they refuse to consider it because the Arnildass' Civil Jurisdiction and procedure were based upon the Commissioners' Executive orders called I believe "a guide" or some such thing.

4. It is just probable

that the Chief Commissioners legislative powers were taken away previous to the Circular of 1870. If so, this circular was only a repetition or explanation of a previous Executive order which had the force of law -

5. We have to maintain a certain amount of continuity of policy and that is my only excuse for delaying the disposal of this and some other similar questions now before me -

x

x

x

(signed) H. Deshvarri Esq.

17th July 1893.

May I not then
 go hearing before
 the ~~recess~~ - Councils
 or may I give the
 order drafted by
 the Central now
 If the latter, so

If the latter, so much of para 2 of the brief as begins with "Apart from" & ends with "becomes law" may ~~not~~ have to be left out - C.

6-7-95

have no doubt
myself that the
Channel rules
have the force
now - and
on this score therefore
the matter need not
be brought before the
Council. But
now how

Council.
 if it is not law how
 can any declaration
 by the Full Council
 await? Yes - Ask
 it for the Council
 Committee
 WED

mitte mit
8.7.95

Submitted to
the Dewan Gov
instructions as to
whether this matter
should be placed
before the Council
of

1-7-95

If the matter is decided
without impairing the
force as law of the Price
relating to Chartered Offices,
then there need be no
reference to the Council.

(See Int. Chamber Bank
Draft order, which
calls in question the
legal force of the Rules,
and incidentally).

If it is proposed to proceed upon the ground that the South Rules have not the force of law, then I would on the question to come before the Council

3/7/25

[illegible]

Submitted to the 1st & 2nd
Councillors

The Honble Mr. (Honble)
Pon had that the
present case did
not come within
the purview of
the ratification
about Channel
expenses, and
that therefore the
By-laws order
imposing the fine
could not be
sustained. If a
similar case is
now taken, it
would not become
necessary to consider
the question whether
the said ratification
has the force of
law or not. In
that case, the matter
need not come
before the Council.
I beg to be instructed
whether I may post
the case for hearing.

4-7-95

11.11.1905
The Council
has decided
that the fine
imposed by the
By-laws shall
be paid by the
defendant.
The Council
has also decided
that the fine
shall be paid
by the defendant
within 14 days
of the date of
the order.

(1) Stamp Correct. 28:

(2) Petition more than 3 months beyond time.

(3) Copy of Order produced.

(4). Rule I, A. (28)
of the Pool. Rules.

Submitted to the
Council.

25/2/92. *Amma*

[Handwritten signature]

100

2412

(General Serial No. 32.)

1892

No. 3782

Name of Petitioners

Gowda. L. Pate Mallegowda
Village. Mad

Village.

Taluk.

District.

Date of Arzi.

Date of Receipt.

Date of Disposal.

No. of Enclosures.

ABSTRACT.

Requests that
order of the Deputy-Com.
Hassan District, no: 15
29th day of July 1891 in
be revised on the follo
grounds: —

III No enquiry, either
regular or summary is
held by the Deputy Commissioner
himself as laid in the Mysore
Land Revenue Code.

(2) The order passed by the Deputy Commr is incorrect

29
The order was against -
- spirit of Govt Progs
186 & 16th August 1870

Translation of Rajan Deby
num's order No 356 of 29th
by 1897 to the Amildar, Berhampur,
- which the appeal
we brought.

The Sub Assistant Com-
missioner of Forests is of
opinion that the amount
of Rs 250/-
exp. incurred by Govt on
account of the destruction
of sandal trees should be
reimbursed to the
occupants - /
covered from the ~~tenants~~.

are therefore requested
each of
to recover from the marginally
of ten persons a sum of
Rs 25/- to make up the sum
total of Rs 250/-

July/91. / Signed J. Gopalakrishnan
For Deputy Commr

1. M. Nanyé funder
 2. Malle funder
 3. N. - 500 -
 4. Molle funder (Bhili Patel)
 5. Muddayin
 6. Chindrayin
 7. Chennabanyin
 8. Metarayin
 9. Irastayin
 10. Man funder
- each.

No. 176. C. 11

Received
4/3/92

MYSORE DEWAN'S OFFICE,

PETITION DEPARTMENT.

OFFICIAL MEMORANDUM.

From the same No. 10 of 25/4/92

The accompanying Petition No. 3782
dated 16th February, received at the
Dewan's Office from Mr. C. Sadasimal
Pleader, Mysore, on behalf of
Mazgalmani Malle Gowda and
Patil Malle Gowda of Madaghal
village, Belur Taluk,

is forwarded, together with its three
enclosures, to the Deputy Commr.
Hassan District for submission
of Proceedings with a ~~process~~ process thereon
~~and for a brief report~~

By Order,

Drafted
as per Commr's
order 25/2

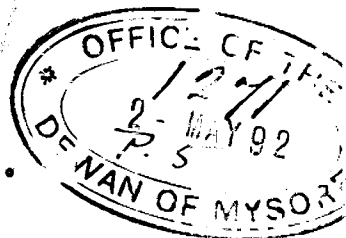
M. N.
7/3
Chief Secretary.

BANGALORE,
25th February 1892.
4/32

51. *note*

(General Serial No. 301)

1892.



From

The Dy Commissioner,
Kannur District

To

The Chief Secretary to the Dewan
of Mysore.

Dated, *Kannur 28th April 1892*

Despatched

Received

Enclosures No. *petition &c*

General No. *70*
No. *see*

*Submitting report on the
petition from Mr. C. Sada.
Sivakur, Headman, Mysore,
on behalf of Melgama
& Malliganda & others
of Belur Taluk etc.*

Received Mys 7/5/92

*Komarasami Mudaliar
for a good press by him
12th instant.
-V 6/5/92*

Memo later

11/6/92

Recd

Please put up

*1 Govt Pro. No. 186
of 16th Aug 1870*

*1 GO NO. 5177-88
of 16th Aug 1880*

*V
9/7/92*

*Memorandum for the Dewan, 80 & 100
has been in 1870, entry: the
above Proceedings put up.*

12/7

*Submitted to the
Council with
propos & memo k*

*V
12/7/92*

(10)

No 20
200Dy Commissioner, Pice Hassan
Dated, Hassan, 25th April 1892.

From,

The Dy Commissioner,
Hassan District.

To,

The Chief Secretary to the
Government of Mysore
Bangalore.

Sir,

Referring to your official
Memo 176 Dated 25th February
last forwarding petition No 3732
of the 16th Idem from Mr. C. Sadashiva
Row, Reader, Mysore, on behalf
of Megalamane Malligowda
and Poteb Malligowda of Belur
Taluk, and calling for Proceedings
and a brief report, I have the
honor to inform you that the
Forest Manager reported that

*
herewith returned
with enclosures.

79 Sandal trees both on the lands of Mailigowda and that of Government waste have been destroyed by fire. The Amildar of Belur enquired into the case and found that one Kishnumanahalli Mailigowda kindled fire for cooking his food on horse gram and the Kaval accidentally caught fire and damaged the trees. The Amildar stated that, principal ingredient - intention of causing mischief was wanting in this case.

2 - The Sub Assistant Conservator who was requested to report the actual loss to Government, personally inspected and estimated the loss of 30 young trees and 60 plants amounting to Rs 250 and suggested that the amount may be recovered from the Khatedars and

and Kaimanahalli Mangowda.

He is of opinion that it is highly improbable that Kaimanahalli Mangowda, who left his place 3 months ago should on his way back halt at the Kaval, a place only half a mile distant from his village either for cooking or boiling horse gram. While Mr. Gopalanagar was in charge of the District, he directed the Amildar of Belur in his order No. 356 Dated 29th July 1891 to recover the fine from the individuals concerned. The Proceedings are in accordance with the Late Chief Commissioner's Notification No. $\frac{5777-38}{647}$ Dated 16th August 1880. -

3 - The Kaimanahalli papers are herewith submitted for reference.

I have the honor to be,
Sir,
Your most obedient servant;


J. S. Srinivasan
Offg. District Officer
Kannur District

1892.

The case is still under dis-
posal. The papers were sent
to the Central Govt. on 15th Sept. last. H.G.

14-10-92

Submitted to the
Committee in Court
H
14/10/92

No. 680

Name of Petitioner. Megalmani Maiti

Village.

Bihode

Taluk.

Belur

District.

Hassan

Date of Arzi.

8-9-92

Date of Receipt.

13-9-92

Date of Disposal.

No. of Enclosures.

Nil

ABSTRACT.

Reminder: This is previous
petn. 816 of 2-92 appealed
against the Dy. Commr.
order fining the petn.
in consequence of the
loss of sandal trees at
Mangavarasante Kara.

S.P.B.

15/9/92

This case appears
to have been disposed
of since by the Com.
Refs - Gurner

13

ॐ नमो भगवते वासुदेवाय
 श्रीकृष्णाय नमः
 श्रीरामाय नमः
 श्रीलक्ष्मणे नमः
 श्रीबाल्याय नमः

कृष्ण
 राम

1893.

14

From The Chief Secretary
His Dewan Mysore

To The Registrar of the
Chief Court,
Mysore

Dated 18 Feb
Despatched 15
Received

Enclosures No.

General No. 13552
P.F. No. 255-92

From the same No. 1696 of 14-1-93.
Has the honor to request
that the Registrar will
be good enough to for-
ward to His Office for
reference, copies of the
old correspondence which
took place between the
Govt. of India & the Chief
Comm. Subsequent to
the year 1870 and more
in the first named author
-ity taking away the
legislative powers of the
Chief Court of Mysore.
The Dewan recollects
having seen the correspond-
-ence in the records of
the Chief Court.

Draft

11/2/93

BO
13/2
Chief Secretary

received from Mr. Bode
are returned, ten in number

1893 11990

Recd: ten letters.
R.B. 20/7

[Handwritten signature]

From

Regd 11/92
The Registrar of the
Chief Court, Mysore

To

[Handwritten signature]
The Secretary to the Dewan
of Mysore.

Dated 19th April 1893

Despatched 20th — — —

Received

Do 213

Enclosures No.

General No. 1696 } 188 — 3
No. 56 }

States that no corres-
pondence in connection
with the withdrawal
of legislative powers of
the Chief Commissioner
is forthcoming in this
Office.

Re

[Handwritten signature]

File sent to Mr. Bode as desired to
be in, for material paper file
discovered being put up, & mtd.

22/4/93.

Submitted, with ^{five} letters since
found. R.B. 1/5/93

The Dewan Bahadur after receiving them
renewed that they were not in print and
that the papers referred to in them were in the Chief's
(vide his minute of 17 Feb 93) - He says

1894.

No. 3531.

Name of Petitioner.

Midda

Village.

Taluk.

Bangalore

District.

Date of Arri.

7-6-94

Date of Receipt.

11-6-94

Date of Disposal.

No. of Enclosures.

one

ABSTRACT.

Appeals against the order of the Deputy Commissioner of Nara, dated 28th December 1893 on the following grounds: -

1. The learned Deputy Commissioner erred in holding that there was an alteration in the shice or field.
2. The Appellant has at a cost of near three hundred Rupees improved them according to the order of the Amildar.
3. In the memorial complaint of the enemies of the Appellant that the water prevents from passing on the way, the Deputy Commissioner, without making proper enquiry, has ordered the demolition of the work done to the tank which will entail heavy loss to the water holding lands under the same.

Submitted for order

In order 2/3-94

Stamp sufficient

There has been a delay of 101 days in the granting of the Copy of the order appealed against to Pdt in the office of the Dy. Comm. Nara.

U. J. 20/6

Call for a report

(1) as to the cause of the delay

(2) as to the authority of the Amildar in the matter of the appeal

(3) as to the cause of delay (101 days) in granting the copy of the order appealed against

24/7/94

Draft
28/2/97
Profr
SMB
7/8

The Deputy Commissioner is further L11
wrong in fining the applicant.

Prays that the Deputy Commissioner's
order above may be set aside & the
refund of the fine may be directed.

~~W. H. H.~~
H. H.

42-



94-6-94
9. 6-94
ad. 6-94

3531 R
-6-94

No tapes stamp affixed

AS no. 36 of 93-94.

base

Ref. 11

11/6/94

Incident.

5052-

3-8-95

PETITION DEPARTMENT.

OFFICIAL MEMORANDUM.

(3) as to the cause of other
(101 days) in furnishing
the petitioner with a copy
of the order applied for
by him.

(11) The petition with its end. 122
be returned By Order,

By Order,

BANGALORE, 24)

July 1894

10-8-99 age

Chief Secretary

2874/8

and to replace a
Shine up its
original position

Dated 5 Dec.
The By Comm.
^{Christians}
order D. C. M. S.
a certain cross
per bond, & satisfy
the collection.
in a church &
the village tank.

Recd 5 PM
U/27/11

445- 224

Gen. Serial No. 31.]
1894
6704
Pet: 297

To The P. S. Branch

Please put up a Copy of your Note
No 326 dated 13 March 1894
referred to in Para 6 of the Report

U/28/11
L2 213-91-9

Recd 29/11
The report No 326 of 13.3.94

referred to is not forthcoming
the registers show that
no such No has issued
from this Branch.

U/10/12
Get a Copy from the Chief
Engineers office of the Note
has been issued from here

U/15/12
Mr K. R. N.
12/11.
The date quoted by the Deputy
Chief Engineer is 1874 &
not 1894. Hence the
copy of the report is not
correct.

Submitted to Council
U/23/1/95

From The Deputy Commissioner
Kodur District

To The Secretary to the
Dewan of Mysore.

Dated 19th
Despatched 22nd November
Received

Enclosures—No. 10: records &
General No. 327 } 1894-95.
No. 10: records &
with the enclosure

Submitting report
on the petition of Saida
of Kodur Samudra,
writing Saida, appealing
against the order of the
Deputy Commissioner finding
the petitioner for failing
to attend to the order
directing him to
removal a certain
cross bund and to
replace a stone in
its original position

Recd 28/11

46
Deputy Commissioner's Office,
Kadur District,
Chikmagalur, 19th November 1894.

From

The Deputy Commissioner,
Kadur District

To

The Chief Secretary to the
Dewan of Mysore.

Sir,

In reply to your No. ^{Pet.} 224 dated
24th July 1894 forwarding for
report Petition No. 3531 dated 9th
June 1894, with its one enclosure,
of one Sirdar of Kudlur Sammat
Tavikere Taluk, appealing against
my order dated 18th December 1893,
fining him for failing to attend
to the order directing him to
remove a certain cross bund
and to replace a sluice in its
original position, I have
the honor to submit the

constructed a new one ^{to} take water through it to his garden. They solicited the stucco being ordered to be replaced in its original position.

3. A perusal of the previous records on the subject, will, I beg to submit, disclose the following:—

- (1) That the tank in question, S. No. 15 of Gollanahalli village, known as Ramiahankere otherwise called Naikankere, was constructed some 30 years ago by Paramatiah (father of the Appellant), Chowdiah (father of Hammamma one of the 5 petitioners above named) and three others;
- (2) That the Appellant Sudda applied to the

Amildar in 1892 and obtained an endorsement from him to the effect that there is no objection to the necessary repairs to the tank being carried out at the villagers' own cost without raising the present level of the waste weir, provided that these repairs do not affect the lands of others below this tank; and (3) that in Criminal case No. 76 of 1891 on the file of the Amildar Magistrate of Tanikere, he (Siddamma), appellant, complained against two of the petitioners named above, viz Hanumamma and Ira Mahiah, of having

caused mischief to the bund of the tank in question by opening the centre of the bund without permission in order to keep a sluice therein and of having built a cross bund to the Kudi to retain more water for their lands at the risk of the tank being breached when it is full. They were on the 17th June 1891 convicted of the first-named offence under S. 426 S. P. Code and each sentenced to pay a fine of Rs 10/-

4. After perusal of the previous records, I passed the following order on 22nd September 1893:- "Sidda is at liberty to repair the old sluice in the old position, but nowhere else."

5. During the Huzar Jamabandi of 1893-94, it having been

brought to my notice through the Takrar list that the Appellant Sidda, in order to take water to his land, S. No. 22, through the sluice of the tank during summer, erected a bund across its waste weir and thereby abstracted the free flowing of water through the waste weir, which found some other course and overflowed the track freely used by people and carts and rendered it impassable, I thereon passed the following order on the 18th December 1893:— "I inspected this and found the ryots' statements to be true. Sidda was then told to replace the sluice in the

applicable to river and tank channels, I thought it fair to deal with the several acts of the Appellant under this Notification, having also in view that in case of minor tanks, as the one in question, these tanks themselves will take the place of channels under big tanks and perform the functions assigned to the latter; and imposed a fine of Rs 25/- on the Appellant for his three acts enumerated above and this sum is below Rs 30/- which is the sum of the maximum punishment allowed in the Notification, viz. Rs 10/- for each offence.

III - Cause of delay for days in furnishing the petitioner with a copy of the orders applied

for by him.

7. On 22nd December 1893, the Appellant Sudda presented to me his application dated 21st idem for being furnished with copies of the following documents:-

- (1) Takkur list of Kollarahalli village with order giving the Appellant Rs 25 passed thereon.
- (2) Endorsement No. 44 dated 22nd September 1893 given to Doddamaliamma of Kollarahalli.
- (3) Order of the same date issued to the Appellant permitting him to carry out the work.

On the same date (22nd December 1893), I issued order No. 727 to the Amildar of Tanikere to send up the records bearing on the subject. His Stika No. 734 dated

57.

31st December 1893 was received in this office on 9th January 1894. It was to the effect that the records in question had been submitted with his Stilla No. 454 dated 8th October 1893. On the 13th March 1894, Order No. 993 was issued to the Amildar forwarding for delivery to the Appellant a copy of order sent to the Amildar in the case, and he was directed to inform the Appellant that the other copies could not be furnished as the records received did not contain their originals. On the 23rd June 1894, the Amildar reported in his Stilla No. 1412 dated 17th Vidim that he received the copy in question and duly delivered

58.

it to the Appellant. It may
be noticed from the records
herewith sent that the Takar
list containing the order about
the imposition of the fine on
the Appellant, which was one
of the three documents copies
of which had been applied for
by him, was not forwarded
by the Amildar with his Stika
No. 734 dated 31st December, 1893
above referred to, that on the
receipt of the second application
dated 16th March 1894 from the
Appellant for a copy of the
said list, the Amildar was
asked in this Office order
No. 1074 dated 2nd April 1894 to
report if the said copy had
not been furnished to the

Petition
Appeal No. 3531 of 1893-94

213-

Appellant.

Vs.

Respondent.

*Siddiah of Huchur
Tavikere Taluk
Kudur District
By B. S. Narayanaiah*

Decision.

Petitioner has a private tank constructed by his ancestors and others. He was found guilty of having—
(1) ~~of having~~ created a bund across its waste weir and thereby obstructed the free flowing of water which found some other course and overflowed the track used by the people and rendered it impassable,
(2) altered the position of the sluice,
(3) ~~sluice, and (2)~~ failed to remove the bund and to replace the sluice as he was directed to do. He was accordingly fined in a sum of Rs 25. The fine was imposed by the Dy. Commissioner, in his Revenue capacity, under the Chief Commr's Notification dated

13th March 1874, No 326, The
appeal is against this order.

2. Government are of opinion
that the Deputy Commissioner
had no power to impose the
fine appealed against. It is
clear that the case under
notice does not fall under
the notification which relates
exclusively to offences committed
in respect to Government
channels. The fine must
therefore be refunded.
If the petitioner has caused
any obstruction to a public
road, he must be dealt with
on the criminal side.

By order
31-7-95
Rev. Secretary
No. 1398
P. 249 8 31.7.95

Copy to the Dy. Commr.
Karnal District with the reference
~~proceedings~~ ~~received with~~

to be sent to the Dy. Commr. 31.7.95
Adverting to para. 2 of the order dated
the 29.10.94 in relation to the fine and notice of
the delay in complying with the order to stop
the use of the road.
The records received from the Dy. Commr. are
returned.
Rev. Secretary

Mr. [Signature]

Gen. 31.]

1896

DEWA

Der Refs.

R.D.

19/2/96

Subd article draft

R.D.

18/2/96

C.D.

2/2/96

From

The Deputy Commissioner
Madurai District

To

The Revenue Secretary to the
Government of Madras

Dated

3rd February 1896

Despatched

Received

General No.

576 1896-96.

No.

Enclosure No. 2

Has the honor to submit for
sanction and transmission
to the Comptroller for audit
the enclosed bill for Rs 25-4-0
to be refunded to one Siddanna
of Sindalur village, Tanjore
District. Rs 25 is the amount
of fine inflicted on him by
the undersigned for having
unauthorisedly obstructed the
flow of water of the Golar-
halli tank but, since ordered
to be refunded to him in Govt
Government decision in appeal
Case No 3581/93-94, received with his
undercover No 1353 dated 31st
July last, setting aside the
undersigned's orders. The
remaining amount of annas
four is the fee of a notice
served on Siddanna.
mandating the payment

fine and since, recovered ^{\$65.}
and credited with it. Hence
the refund bill for \$25-4-
2. The original records having
been once submitted to and
returned by Government,
only the vernacular bill
relating to the amount in
question is herewith attached.

R. J. P. K. P. K. P.

for Deputy Commissioner

S. M.

Sh. M. P. K. P.

Read:

Order No 576 dated
3rd February 1896, from the
Deputy Commissioner, Kaddur
District, submitting for sanc-
tion, in pursuance of the order
conveyed in Government order
No 3553
93-94
dated 31st July 1895, a Request
Bill in favor of one Suddana
of Kaddur Village, Tanikere
Taluk, for Rs 25-0-0 being
the amount of fine ^(with Mohar fee) ~~Rs 25-0-0~~
~~for (fine Rs 25, Mohar fee Rs 1)~~
imposed on him by the Deputy
Commissioner, for having unlawfully
-rigely obstructed the flow
of water of the Gollanbali
Tank & altered the position
of the sluice &c.

Order thereon

To The re

27-

is sanctioned and transmitted
to the Comptroller for audit.

AD 28/2/46
2/3/46
For Secy

To The Dy. Commr., Kachin Dist.
Returning the vernacular doc.
The Comptroller into the
bill

Dewan's Note
of 17.7.93

Extract from the Minute of the
Dewan on File N^o. 255 of 1892-93
relating to the appeal of Mat-
legowda and others of Mad-
gatta, Belur Taluk, against
the fine imposed on them under
Chief Commissioner's Notification
N^o. 186 dated 16th August 1870.

x — x

2. It is impossible we
can decide that the Executive
orders of the "Chief Commissioner"
and "Commissioner" had at
no time the force of law in
Mysore - It was only at a
certain stage of the British
Administration of Mysore
that the Government of
India stepped in and said
that the Executive orders of

the Viceroy and not those of the Chief Commissioner had the force of law in Mysore - From that date the "Commissioner" or "Chief Commissioner" exercised no legislative functions, but previously every Executive order of this functionary had the force of law - This was a necessary result of the terms of the "Commissioners" appointment. This change I think took place about the time that Chief Commissioners came to be appointed for other Provinces such as Orissa, Central Provinces; He had in Mysore at one time the same powers as the Maharaja of Mysore, only he was expected to exercise them in accordance with the policy and instructions of the Governor General -

1696
56

Bangalore, 19th April 1893.

(15)

From,

The Registrar of the
Chief Court of Mysore.

To,

The Chief Secretary
to the Dewan of Mysore.

Sir,

I am directed to acknowledge the receipt of your No. 13552 of the 13th ultimo, P.F. 255-92 requesting that the originals or copies of the old correspondence, which took place between the Government of India and the Chief Commissioner, subsequent to the year 1870 and which ended in the first named authority taking away the legislative power of the Chief Commissioner of Mysore, may be forwarded for reference, and to state that a careful search has been made, but no such correspondence is forthcoming in this Office - The correspondence is probably in the Residency Records.

I have the honor to be,
Sir
Your Most Obedient Servant

Keenpham
Acting Registrar

following report on the subject:-

i. Facts of the case.

2. On the 4th May 1893, Doddla Mariamma, Hannumamma, Malli-
amma, Sigamma and Ira Mariamma
of Gollarahalli village, Kudlur
Mazani, Tarikere Taluk, presented
a petition to me complaining
(1) that the Appellant Sidda
had raised the level of the
waste weir of the tank
situated above their gardens
in the said village by carrying
out earth and stone work to it;
(2) that the rains had brought
in plenty of water to the tank;
(3) that their lands situated
close to the bed of the tank were
submerged in consequence
and rendered unfit for

cultivation; and (4) that the future tank-filling rains would bring in much more water to the tank so that it might cause the bund to give way and also damage their gardens situated below the tank, and thus subject them to loss. - The petitioners solicited the personal inspection of the tank and the issue of necessary orders for the waste weir being lowered to its former level by the removal of the portion raised. They also complained that the Appellant had dismantled and filled up the original sluice, and with the stones thereof unauthorizably

- 3 -

"original place and remove the cross bund. As he has failed to do either of these, he is now fined Rs 25/- and ordered to do this within one month, failing which the Amildar will have the sluice removed at Sidda's expense".

ii. Authority or provision of the law under which ~~the fine~~ was imposed.

6. I beg to submit that ryots' interference with Government irrigation works without permission has been declared to be offences cognizable by the Revenue authorities under Government Notification No. 326

524.

dated 13th March 18~~7~~⁴, headed
"Channel offences"; and I
think that the Appellant's
interference with the sluice,
his obstruction to the free
flow of water over the waste weir
by putting a ring bund and his
further act in that direction
so as to stop all communication
to travellers and carts, are acts
allied to or connected with one
another and committed with
the one idea of regulating water
to his lands by interfering with
the sluice and by retaining more
water than what the tank was
capable of doing. Clause VI of
the above notification refers to
interference with sluice, but as
these offences have been held

question to this office when called for on receipt of the first application from the Appellant, on the 22^d December 1893.

8. The Vernacular records on the subject as per fanish are enclosed for reference, and the appeal petition with its enclosure is herewith returned.

I have the honor to be,

Sir,

Your most obt. servant,

Wt. Sparke

Deputy Commissioner
Kadur District.

Am.S.

24

LA 213-91-11

G. Narayana Rao Esq. Adv: PNR